GENERAL

ORDERS IN BANKRUPTCY

BY THE

Supreme Court of the United States.

ALSO, THE

RULES, ORDERS AND REGULATIONS

ADOPTED BY THE

DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF NEW YORK.

BUFFALO, N. Y.
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UNITED STATES COURTS,

NORTHERN DISTRICT OF NEW YORK.

The Terms of the *District* Courts are as follows:

Third Tuesday in January, at Albany.

Third Tuesday in March, at Utica.

Second Tuesday in May, at Rochester.

Third Tuesday in August, at Buffalo.

Third Tuesday in November, at Auburn.

And *Special* Terms by appointment, at Oswego, Ogdensburgh, Plattsburgh, Watertown, or elsewhere.

Admiralty Session, every Tuesday, at Buffalo.

Bankruptcy Session, every Tuesday and Friday, at Buffalo.

The Terms of the *Circuit* Court are as follows:

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Third Tuesday in March, at Utica (Adjourned Term.)

Third Tuesday in June, at Canandaigua.

Second Tuesday in October, at Albany.

The *Adjourned Terms* are for *Civil* business only.

The Officers of the Courts are as follows:

Judges of the U. S. Circuit Court.—Hon. WARD HUNT, Utica; Hon. L. B. WOODRUFF, New York City; Hon. NATHAN K. HALL, Buffalo, N. Y.

Judge of the U. S. District Court.—Hon. NATHAN K. HALL, Buffalo, N. Y.

Clerk of the Circuit Court.—CHARLES MASON, Utica.

Clerk of the District Court.—M. P. FILLMORE, Buffalo.

U. S. Attorney.—RICHARD CROWLEY, Lockport.

U. S. Marshal.—I. F. QUINBY, Rochester.

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GENERAL ORDERS IN BANKRUPTCY

BY THE

Supreme Court of the United States.

In pursuance of the tenth section of the act entitled "An act to establish a Uniform System of Bankruptcy throughout the United States," approved March second, eighteen hundred and sixty-seven, the Justices of the Supreme Court of the United States have framed the following General Orders, which shall constitute the Rules of Practice and Procedure in Bankruptcy in the District Court of the United States.

DECEMBER TERM, 1871.

The General Orders in Bankruptcy, heretofore established by this Court, are so amended as to read as follows:

I.

DUTIES OF CLERKS OF DISTRICT COURTS.

The clerks of the several district courts shall enter upon each petition in bankruptcy the day and the hour of the day upon which the same shall be filed; and shall also make a similar note upon every subsequent paper filed with them, except such papers as have been filed before the register, and so endorsed by him; and the papers in each case shall be kept in a file by themselves. No paper shall be taken from the files for any purpose except by order of the court. Every paper shall have endorsed upon it a brief statement of its character. The clerks shall keep a docket, in which the cases shall be entered and numbered in the order in which they are commenced; and the number of each case shall be endorsed on every paper. The docket shall be so arranged that a brief memorandum of every proceeding in each case shall be entered therein, in a manner convenient for reference, and shall at all times be open for public inspection. The clerks shall also keep separate minute-books for the record of proceedings in bankruptcy, in which shall be entered a minute of all the proceedings in each case, either of the court or of a register of the court, under their respective dates.

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II.

PROCESS.

All process, summons and subpœnas shall issue out of the court under the seal thereof, and be tested by the clerk; and blanks, with the signature of the clerk and seal of the court, may, upon application, be furnished to the registers.

III.

APPEARANCE.

Proceedings in bankruptcy may be conducted by the bankrupt in person in his own behalf, or by a petitioning or opposing creditor; but a creditor will only be allowed to manage before the court his individual interest. Either party may appear and conduct the proceedings by attorney, who shall be an attorney or counselor authorized to practice in the circuit or district court. The name of the attorney or counselor, with his place of residence and business, shall be entered upon the docket, with the date of the entry. All papers or proceedings offered by an attorney to be filed, shall be endorsed as above required; and orders granted on motion shall contain the name of the party or attorney making the motion. Notices and orders which are not, by the act or by these rules, required to be served on the party personally, may be served upon his attorney.

IV.

COMMENCEMENT OF PROCEEDINGS.

Upon the filing of a petition in case of voluntary bankruptcy, or as soon as any adjudication of bankruptcy is made upon a petition filed in case of involuntary bankruptcy, the petition shall be referred to one of the registers in such manner as the district court shall direct, and the petitioner shall furnish the register with the copy of the papers in the case, and thereafter all the proceedings required by the act shall be had before him, except such as are required by the act to be had in the district court, or by special order of the district judge, unless some other register is directed to act in the case.

The order designating the register to act upon any petition shall name a day upon which the bankrupt shall attend before the register, from which date he shall be subject to the orders of the court in all matters relating to his bankruptcy, and may receive from the register a protection against arrest, to continue until the final adjudication on his application for a discharge, unless suspended or vacated by order of the court.

A copy of the order shall forthwith be sent by mail to the register, or be delivered to him personally, by the clerk or other officer of the court.

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V.

REGISTERS.

The time when and the place where the registers shall act upon the matters arising under the several cases referred to them, shall be fixed by special order of the district court, or by the register acting under the authority of a general order, in each case, made by the district court; and at such times and places the registers may perform the acts which they are empowered to do by the act, and conduct proceedings in relation to the following matters, when uncontested, viz.: making adjudication of bankruptcy on petition of the debtor; directing, unless otherwise ordered by the court, the newspapers in which the notice shall be published by the messenger; administering oaths; receiving the surrender of a bankrupt; granting protection thereon; giving requisite direction for notices, advertisements and other ministerial proceedings; taking proofs of claims; ordering payment of rates and taxes, and salary or wages of persons in the employment of the assignee; ordering amendments, or inspection, or copies, or extracts of any proceedings; taking accounts of proceeds of securities held by any creditor; taking evidence concerning expenses and charges against the bankrupt's estate; auditing and passing accounts of assignees; proceedings for the declaration and payment of dividends, and taxing costs in any of the proceedings, all of which shall be subject to the control of the court.

VI.

DISPATCH OF BUSINESS.

Every register, in performing the duties required of him under the act, and by these orders, or by orders of the district court, shall use all reasonable dispatch, and shall not adjourn the business but for good cause shown. Six hours' session shall constitute a day's sitting if the business requires; and when there is time to complete the proceedings in progress within the day, the party obtaining any adjournment or postponement thereof may be charged, if the court think proper, with all the cost incurred in consequence of the delay.

VII.

EXAMINATION AND FILING OF PAPERS.

It shall be the duty of the register to examine the bankrupt's petition and schedules filed therewith, and to certify whether the same are correct in form; or, if deficient, in what respect they are so; and the court may allow amendments to be made in the petition and schedules upon the application of the petitioner, upon proper cause shown, at any time prior to the discharge of the bankrupt. The register shall endorse

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upon each paper filed with him the time of filing, and, at the close of the last examination of the bankrupt, the register having charge of the case shall file all the papers relating thereto in the office of the clerk of the district court, and these papers, together with those on file in the clerk's office, and the entries in the minute-book, shall constitute the record in each case; and the clerk shall cause the papers in each case to be bound together.

VIII.

ORDERS BY THE REGISTER.

Whenever an order is made by a register in any proceeding in which notice is required to be given to either party before the order can be made, the fact that the notice was given, and the substance of the evidence of the manner in which it was given, shall be recited in the preamble to the order, and the fact also stated that no adverse interest was represented at the time and place appointed for the hearing of the matter upon such notice; and whenever an order is made where adverse interests are represented before the register, the fact shall be stated that the opposing parties consented thereto, or that the adverse interest represented made no opposition to the granting of such order.

IX.

NOTIFICATION TO ASSIGNEE OF HIS APPOINTMENT.

It shall be the duty of the register, immediately upon the appointment of an assignee, as prescribed in sections twelve and thirteen of the act, (should he not be present at such meeting,) to notify him, by personal or mail service, of his appointment; and in such notification the assignee so appointed shall be required to give notice forthwith to the register of his acceptance or rejection of the trust.

X.

TESTIMONY, HOW TAKEN.

The examination of witnesses before a register in bankruptcy may be conducted by the party in person or by his counsel or attorney, and the witnesses shall be subject to examination and cross-examination, which shall be had in conformity with the mode now adopted in courts of law. The depositions upon such examination shall be taken down in writing by the register in the form of narrative, unless he determines that the examination shall be by question and answer in special instances, and when completed shall be read over to the witness and signed by him in the presence of the register. Any question or questions which may be objected to shall be noted by the register upon the deposition, but he shall not have power to decide on the competency, materiality or rele-

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vancy of the question; and the court shall have power to deal with the costs of incompetent, immaterial or irrelevant depositions, or parts of them, as may be just. In case of refusal of a witness to attend, or to testify before a register, the same proceedings may be had as are now authorized with respect to witnesses to be produced on examination before an examiner of any of the courts of the United States on written interrogatories.

XI.

MINUTES BEFORE REGISTER, FILING, ETC.

A memorandum made of each act performed by a register shall be in suitable form, to be entered upon the minute-book of the court, and shall be forwarded to the clerk of the court not later than by mail the next day after the act has been performed. Whenever an issue is raised before the register in any proceedings, either of fact or law, he shall cause the same to be stated in writing in the manner required by the fourth and sixth sections of the act, and certify the same forthwith to the district judge for his decision. The pendency of the issue undecided before a judge shall not necessarily suspend or delay other proceedings before the register or court in the case.

XII.

ACCOUNTS FOR SERVICES OF REGISTER AND MARSHAL.

Every register shall keep an accurate account of his traveling and incidental expenses, and those of any clerk or other officer attending him in the performance of his duties in any case or number of cases which may be referred to him; and shall make return of the same under oath, with proper vouchers, (when vouchers can be procured,) on the first Tuesday in each month; and the marshal shall make his return, under oath, of his actual and necessary expenses in the service of every warrant addressed to him, and for custody of property, publication of notices and other services, and other actual and necessary expenses paid by him, with vouchers therefor whenever practicable, and also with a statement that the amounts charged by him are just and reasonable.

XIII.

MARSHAL AS MESSENGER.

It shall be the duty of the marshal as messenger to take possession of the property of the bankrupt, and to prepare, within three days from the time of taking such possession, a complete inventory of all the property, and to return it as soon as completed. The day of filing the petition and the value of the assets as appearing in schedule B shall be

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stated. The time for making the inventory and return may be enlarged, under proper circumstances, by special order of the district court: [*Provided, however*, That if any goods or effects so taken into possession as the property of the bankrupt shall be claimed by or in behalf of any other person, the marshal shall forthwith notify the petitioning creditor of such claim, and may, within five days after so giving notice of such claim deliver them to the claimant or his agent, unless the petitioning creditor or party at whose instance possession is taken shall, by bond with sufficient sureties, to be approved by the marshal, indemnify the marshal for the taking and detention of such goods and effects, and the expenses of defending against all claims thereto; and, in case of such indemnity, the marshal shall retain possession of such goods and effects, and proceed in relation thereto as if no such claim had been made: *And provided further*, That in case the petitioning creditor claims that any property not in the possession of the bankrupt belongs to him, and should be taken by the marshal, the marshal shall not be bound to take possession of the same, unless indemnified in like manner.] He shall also, in case the bankrupt is absent or cannot be found, prepare a schedule of the names and residences of his creditors, and the amount due to each, from the books or other papers of the bankrupt that may be seized by him under his warrant, and from any other sources of information; but all statements upon which his return shall be made shall be in writing, and sworn to by the parties making them, before one of the registers in bankruptcy of the court, or a commissioner of the courts of the United States. In cases of voluntary bankruptcy, the marshal may appoint special deputies to act as he may designate, in one or more cases, as messengers, for the purpose of causing the notices to be published and served as required in the eleventh section of the act, and for no other purpose. In giving the notices required by the third subdivision of the eleventh section of the act, it shall be sufficient to give the names, residences and amount of the debts (in figures) due the several creditors, so far as known, and no more.

XIV.

PETITIONS AND AMENDMENTS.

All petitions, and the schedules filed therewith, shall be printed or written out plainly, and without abbreviation or interlineation, except where such abbreviation and interlineation may be for the purpose of reference; and whenever any amendments are allowed, they shall be written and signed by the petitioner on a separate paper, in the same manner as the original schedules were signed and verified; and if the amendments are made to different schedules, the amendments to each schedule shall be made separately, with proper reference to the schedule proposed to be amended, and each amendment shall be verified by the oath of the petitioner in the same manner as the original schedules.

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XV.

PRIORITY OF ACTIONS (INVOLUNTARY BANKRUPTCY.)

Whenever two or more petitions shall be filed by creditors against a common debtor, alleging separate acts of bankruptcy committed by said debtor on different days within six months prior to the filing of said petitions, and the debtor shall appear and show cause against an adjudication of bankruptcy against him on the petitions, that petition shall be first heard and tried which alleges the commission of the earliest act of bankruptcy; and in case the several acts of bankruptcy are alleged in the different petitions to have been committed on the same day, the court before which the same are pending may order them to be consolidated, and proceed to a hearing as upon one petition; and if an adjudication of bankruptcy be made upon either petition, or for the commission of a single act of bankruptcy, it shall not be necessary to proceed to a hearing upon the remaining petitions, unless proceedings be taken by the debtor for the purpose of causing such adjudication to be annulled or vacated.

XVI.

FILING PETITIONS IN DIFFERENT DISTRICTS.

In case two or more petitions shall be filed against the same individual in different districts, the first hearing shall be had in the district in which the debtor has his domicile, and such petition may be amended by inserting an allegation of an act of bankruptcy committed at an earlier date than that first alleged, if such earlier act is charged in either of the other petitions; and in case of two or more petitions against the same firm in different courts, each having jurisdiction over the case, the petition first filed shall be first heard, and may be amended by the insertion of an allegation of an earlier act of bankruptcy than that first alleged, if such earlier act is charged in either of the other petitions, and, in either case, the proceedings upon the other petitions may be stayed until an adjudication is made upon the petition first heard; and the court which makes the first adjudication of bankruptcy shall retain jurisdiction over all proceedings therein until the same shall be closed. In case two or more petitions for adjudication of bankruptcy shall be filed in different districts by different members of the same copartnership, for an adjudication of the bankruptcy of said copartnership, the court in which the petition is first filed having jurisdiction shall take and retain jurisdiction over all proceedings in such bankruptcy until the same shall be closed; and if such petitions shall be filed in the same district, action shall be first had upon the one first filed.

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XVII.

CONCERNING REDEMPTION OF PROPERTY AND COMPOUNDING CLAIMS.

Whenever it may be deemed for the benefit of the estate of a bankrupt to redeem and discharge any mortgage or other pledge, or deposit, or lien upon any property, real or personal, or to relieve said property from any conditional contract, and to tender performance of the conditions thereof, or to compound any debts or other claims or securities due or belonging to the estate of the bankrupt, the assignee, or the bankrupt, or any creditor who has proved his debt, may file his petition therefor in the office of the clerk of the district court; and thereupon the court shall appoint a suitable time and place for the hearing thereof, notice of which shall be given in some newspaper, to be designated by the court, at least ten days before the hearing, so that all creditors and other persons interested may appear and show cause, if any they have, why an order should not be passed by the court upon the petition authorizing such act on the part of the assignee.

XVIII.

PROCEEDINGS IN CASE OF COPARTNERSHIP.

In case one or more members of a copartnership refuse to join in a petition to have the firm declared bankrupt, the parties refusing shall be entitled to resist the prayer of the petition in the same manner as if the petition had been filed by a creditor of the partnership, and notice of the filing of the petition shall be given to him in the same manner as provided by law and by these rules in the case of a debtor petitioned against; and he shall have the right to appear at the time fixed by the court for the hearing of the petition, and to make proof, if he can, that the copartnership is not insolvent, or has not committed an act of bankruptcy, and to take all other defenses which any debtor proceeded against is entitled to take by the provisions of the act; and in case an adjudication of bankruptcy is made upon the petition, such copartner shall be required to furnish to the marshal, as messenger, a schedule of his debts and an inventory of his property, in the same manner as is required by the act in cases of debtors against whom adjudication of bankruptcy shall be made.

XIX.

DUTIES OF ASSIGNEES.

The assignee shall, immediately on entering upon his duties, prepare a complete inventory of all the property of the bankrupt that comes into his possession; and all sales of the same shall be by public auction,

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unless otherwise ordered by the court. Every assignee shall keep full, exact, and regular books of account of all receipts, payments and expenditures of money by him, and shall make report to the court, within twenty days after receiving the deed of assignment, of the articles set off to the bankrupt by him, according to the provisions of the fourteenth section of the act, with the estimated value of each article, and any creditor may take exceptions to the determination of the assignee within twenty days after the filing of the report. The register may require the exceptions to be argued before him, and shall certify them to the court for final determination at the request of either party. At the expiration of three months from the date of the adjudication of bankruptcy, the assignee shall file with the register a report, which shall exhibit just and true accounts of all his receipts and payments, verified by his oath; and he shall also file at the same time a statement of the whole estate of the bankrupt as then ascertained, of the property recovered and of the property outstanding, specifying the cause of its being outstanding, and also what debts or claims are yet undetermined. The register may, if he shall judge it expedient, order that the second general meeting of creditors be called. Similar reports and statements shall be made, and similar proceedings had thereon, at the expiration of each successive period of three months. The substance of each monthly return of the assignee shall be sent by the register to any creditor who shall request it and pay the fee provided for notices to creditors. In case the assignee shall neglect to file any report or statement which it is made his duty to file or make by the bankrupt act, or any general order in bankruptcy, within five days after the same shall be due, it shall be the duty of the register to make an order requiring the assignee to show cause before the court, at a time specified in the order, why he should not be removed from office. The register shall cause a copy of the order to be served upon the assignee at least seven days before the time fixed for the hearing, and proof of the service thereof to be delivered to the clerk.

XX.

COMPOSITION WITH CREDITORS (ARBITRATION.)

Whenever an assignee shall make application to the court for authority to submit a controversy arising in the settlement of demands against the bankrupt's estate or of debts due to it, to the determination of arbitrators, or for authority to compound and settle such controversy by agreement with the other party, the subject-matter of the controversy and the reasons why the assignee thinks it proper and most for the interest of the creditors that it should be settled by arbitration or otherwise, shall be set forth clearly and distinctly in the application; and the court, upon examination of the same, may immediately proceed to take testimony and make an order thereon, or may direct the assignee to give notice of the application, either by publication or by mail, or both,

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to the creditors who have proved their claims to appear and show cause, on a day to be named in the order and notice, why the application should not be granted, and may make such order thereon as may be just and proper.

XXI.

DISPOSAL OF PROPERTY BY ASSIGNEE.

In making sales of personal property, the assignee shall give at least ten days' notice of the time and place of the sale, and of the articles to be sold, by advertisement in one or more newpapers, to be designated by the court or by a register, and by posted handbills or otherwise, as he may think best for the interest of the estate, or as the court may order, and he shall give like notice of the sale of any real estate at least twenty days before such sale. Upon his application to the court, and for good cause shown, the assignee may be authorized to sell any specified portion of the bankrupt's estate at private sale; in which case he shall keep an accurate account of each article sold, and the price received therefor, and to whom sold: which account he shall file with his report, at the first meeting of creditors after the sale. The court, by order in special cases, may dispense with newspaper and handbill advertisements. In making sale of a franchise of a corporation, it may be offered in fractional parts or in certain numbers of shares, corresponding to the number of shares in the bankrupt corporation. And in making the sale of the real estate of a bankrupt, the assignee shall, unless otherwise ordered by the court, offer the same in lots or parcels, if it exists in separate parcels, in such manner as may be for the interest of the creditors of the estate.

XXII.

PERISHABLE PROPERTY.

In all cases where goods or other articles come into possession of the messenger or assignee which are perishable, or liable to deterioration in value, the court may, upon application, in its discretion, order the same to be sold, and the proceeds deposited in court.

XXIII.

SERVICE OF NOTICE.

The notice provided by the eighteenth section of the act shall be served by the marshal or his deputy, and notices to the creditors of the time and place of meeting provided by the section shall be given through the mail by letter, signed by the clerk of the court.

Every envelope containing a notice sent by the clerk or messenger, shall have printed on it a direction to the postmaster at the place to which it is sent to return the same within ten days unless called for.

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XXIV.

OPPOSITION TO DISCHARGE.

A creditor opposing the application of a bankrupt for discharge shall enter his appearance in opposition thereto on the day when the creditors are required to show cause, and shall file his specification of the grounds of his opposition in writing within ten days thereafter, unless the time shall be enlarged by order of the district court in the case; and the court shall thereupon make an order as to the entry of said case for trial on the docket of the district court, and the time within which the same shall be heard and decided.

XXV.

SECOND AND THIRD MEETING OF CREDITORS.

Whenever any bankrupt shall apply for his discharge, within three months from the date of his being adjudged a bankrupt, under the provisions of the twenty-ninth section of the act, the court may direct that the second and third meetings of creditors of said bankrupt required by the twenty-seventh and twenty-eighth sections of said act shall be had on the day which may be fixed in the order of notice for the creditors to appear and show cause why a discharge should not be granted such bankrupt; and the notices of such meeting shall be sufficient if it be added to the notice to show cause, that the second and third meetings of said creditors shall be had before the register upon the same day that cause may be shown against the discharge, or upon some previous days or day.

XXVI.

APPEALS.

Appeals in equity from the district to the circuit court, and from the circuit to the supreme court of the United States, shall be regulated by the rules governing appeals in equity in the courts of the United States. Any supposed creditor who takes an appeal to the circuit court from the decision of the district court rejecting his claim, in whole or in part, according to the provisions of the eighth section of the act, shall give notice of his intention to enter the appeal within ten days from the entry of the final decision of the district court upon his claim; and he shall file his appeal in the clerk's office of the circuit court within ten days thereafter, setting forth a statement in writing of his claim in the manner prescribed by said section; and the assignee shall plead or answer thereto in like manner within ten days after the statement shall be filed. Every issue thereon shall be made up in the court, and the cause placed upon the docket thereof, and shall be heard and decided in the same manner as other actions at law.

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XXVII.

IMPRISONED DEBTOR.

If at the time of preferring his petition the debtor shall be imprisoned, the court, upon his application, may order him to be produced upon *habeas corpus* by the jailor, or any officer in whose custody he may be, before the register, for the purpose of testifying in any matter relating to his bankruptcy; and if committed after the filing of his petition upon process in any civil action founded upon a claim provable in bankruptcy, the court may, upon like application, discharge him from such imprisonment. If the petitioner, during the pendency of the proceedings in bankruptcy, be arrested or imprisoned upon process in any civil action, the district court, upon his application, may issue a writ of *habeas corpus* to bring him before the court, to ascertain whether such process has been issued for the collection of any claim provable in bankruptcy, and, if so provable, he shall be discharged: if not, he shall be remanded to the custody in which he may lawfully be. Before granting the order for discharge, the court shall cause notice to be served upon the creditor, or his attorney, so as to give him an opportunity of appearing and being heard before the granting of the order.

XXVIII.

DEPOSIT AND PAYMENT OF MONEYS.

The district court in each district shall designate certain national banks, if there are any within the judicial district, or if there are none, then some other safe depository, in which all moneys received by assignees or paid into court in the course of any proceedings in bankruptcy shall be deposited; and every assignee and the clerk of said court shall deposit all sums received by them, severally, on account of any bankrupt's estate, in one designated depository; and every clerk shall make a report to the court of the funds received by him, and of deposits made by him, on the first Monday of every month. On the first day of each month the assignee shall file a report with the register, stating whether any collections, deposits or payments have been made by him during the preceding month, and if any, he shall state the gross amount of each. The register shall enter such reports upon a book to be kept by him for that purpose, in which a separate account shall be kept with each estate; and he shall also enter therein the amount, the date, and the expressed purpose of each check countersigned by him. No moneys so deposited shall be drawn from such depository unless upon a check, or warrant, signed by the clerk of the court, or by an assignee, and countersigned by the judge of the court, or one of the registers designated for that purpose, stating the date, the sum, and the account for which it is drawn; and an entry of the substance of such

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check or warrant, with the date thereof, the sum drawn for, and the account for which it is drawn, shall be forthwith made in a book kept for that purpose by the assignee or the clerk; and all checks and drafts shall be entered in the order of time in which they are drawn, and shall be numbered in the case of each estate. A copy of this rule shall be furnished to the depository so designated, and also the name of any register authorized to countersign said checks.

XXIX.

PREPAYMENT OR SECURITY OF FEES.

The fees of the register, marshal, and clerk shall be paid or secured in all cases before they shall be compelled to perform the duties required of them by the parties requiring such service; and in the case of witnesses their fees shall be tendered or paid at the time of the service of the summons or subpœna, and shall include their traveling expenses to and from place at which they may be summoned to attend. The court may order the whole, or such portion of the fees and costs in each case to be paid out of the fund in court in such case as shall seem just.

The funds deposited with the register, marshal, and clerk shall, in all cases where they come out of the bankrupt's estate, be considered as a part of such estate, and the assignee shall be charged therewith, and shall not be allowed for any disbursements therefrom, except upon the production of proper vouchers from such officers, respectively given after the due allowance of their respective bills.

XXX.

AS TO FEES AND COSTS.

In addition to the fees expressly allowed by the bankrupt act, there shall be allowed the following:

To the clerks: For every copy of any paper in proceedings in bankruptcy, twenty-five cents for certifying the same, and ten cents in addition for each folio of one hundred words. For each notice required to be sent by mail, when signed by the clerk, ten cents; to be prepaid by the party required to give the notice.

To the register: Affidavits to any petition, schedule, or other proceedings in bankruptcy, except proof of debt by a creditor or his agent, for each oath and certifying the same, twenty-five cents.

For examining petition and schedules and certifying to their correctness, three dollars.

For notification to assignee of his appointment, fifty cents. For assignment of bankrupt's effects, one dollar. For order to assignee directing publication of his appointment, fifty cents. For order for examination of the bankrupt or his wife, one dollar.

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Summons or subpœna for witness, twenty-five cents. For taking examination of bankrupt or his wife, or any witness, under section twenty-six, and for each examination in proof of debt under section twenty-two, twenty cents for each folio, and one dollar for each hour actually engaged; and for certifying each affidavit or deposition in proof of debt as satisfactory, twenty-five cents.

The fees paid by creditors for establishing their debts as above, shall shall be entitled to priority of payment under section twenty-eight.

For computation of dividends, five dollars, and ten cents for each creditor to whom a dividend is declared. For every certificate of question to the district court or judge, under the fourth and sixth sections of the act, one dollar, which may be increased in any case by order of the judge.

When the proceedings are not conducted in the usual office of the register, the traveling and incidental expenses of the register, and of any clerk or other officer attending him, shall be allowed, and five dollars for each day employed in going, attending, and returning, and such expenses and fees shall be apportioned among the cases as provided in section five.

No other allowance shall be made for clerk-hire.

For each notice which the register may be required to send to creditors fifteen cents, which shall include postage and stationery.

For each memorandum sent by the register to the clerk, ten cents for each folio, and fifteen cents for the certificate.

No fees shall be allowed to the register except those hereinbefore enumerated.

The fifty dollars deposited, under rule forty-seven, with the clerk for the register, shall be delivered by the clerk to the register to whom the case is referred.

Ten days before the day fixed for the consideration of the assignee's final account, or at any other time fixed by the court on its own motion, or on the application of any person interested, the clerk, marshal, and register shall file with a master commissioner of the court, or some other fit person who shall be appointed by the court for that purpose as a standing auditor, a statement of fees, including prospective fees for final distribution, which shall exhibit, by items, each service and the fee charged for it, and the amount received. Said auditor shall tax each fee-bill, allowing none but such as are provided for by the statute or by these rules, which taxation shall be conclusive, reserving to the party interested exceptions to the report, which shall be decided by the court.

The reasonable compensation of the master or auditor for taxing these fee-bills, not exceeding ten dollars in any one case of bankruptcy, shall be paid out of any funds in the hands of the assignee, and if there be no such funds, by the clerk, marshal, and register, in proportion to the amount of their bills so taxed and allowed.

Any money received by either of the officers mentioned in excess of lawful fees or compensation, shall be ordered by the judge to be paid

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into court, and such order may be enforced, if necessary, by attachment as for contempt.

No bankrupt's discharge shall be refused or delayed by reason of the non-payment of any fees, except the fee for his certificate of discharge.

XXXI.

COSTS IN CONTESTED ADJUDICATIONS.

In cases of involuntary bankruptcy, where the debtor resists an adjudication, and the court, after hearing, shall adjudge the debtor a bankrupt, the petitioning creditor shall recover, to be paid out of the fund, the same costs that are allowed by law to a party recovering in a suit in equity ; and in case the petition shall be dismissed, the debtor may recover like costs from the petitioner.

XXXII.

AS TO FORMS AND SCHEDULES.

The several forms specified in the schedules annexed to these orders for the several purposes therein stated shall be observed and used, with such alterations as may be necessary to suit the circumstances of any particular case. In all cases where, by the provisions of the act, a special order is required to be made in any proceeding, or in any case instituted under the act in a district court of the United States, such order shall be framed by the court to suit the circumstances of the particular case; and the forms hereby prescribed shall be followed as nearly as may be, and so far as the same are applicable to the circumstances requiring such special order. In proceedings in equity, instituted for the purpose of carrying into effect the provisions of the act, or for enforcing the rights and remedies given by it, the rules of equity practice established by the supreme court of the United States shall be followed as nearly as may be. In proceedings at law, instituted for the same purpose, the rules of the circuit court regulating the practice and procedure in cases at law shall be followed as nearly as may be. But the court, as the judge thereof, may, by special rule in any case, vary the time allowed for return of process, for appearance and pleading, and for taking testimony and publication, and may otherwise modify the rules for the preparation of any particular case so as to facilitate a speedy hearing.

XXXIII.

OMISSIONS AND AMENDMENTS.

Whenever a debtor shall omit to state in the schedules annexed to his petition any of the facts required to be stated concerning his debts or his property, he shall state, either in its appropriate place in the schedules

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or in a separate affidavit to be filed with the petition, the reason for the omission, with such particularity as will enable the court to determine whether to admit the schedules as sufficient, or to require the debtor to make further efforts to complete the same according to the requirements of the law ; and in making any application for amendment to the schedules, the debtor shall state under oath the substance of the matters proposed to be included in the amendment, and the reasons why the same had not been incorporated in his schedules as originally filed, or as previously amended. In like manner, he may correct any statement made during the course of his examination.

XXXIV.

PROOF OF DEBTS.

Depositions to prove claims against a bankrupt's estates hall be correctly entitled in the court and in the cause. When made to prove a debt due to a copartnership, it must appear on oath that the deponent is a member of the creditor firm; when made by an agent, the reason the deposition is not made by the claimant in person must be stated; and when made to prove a debt due to a corporation, and the corporation has no such officer as cashier or treasurer, the deposition may be made by the officer whose duties most nearly correspond to those of cashier or treasurer. Depositions to prove debts existing in open account shall state when the debt became or will become due; and if it consists of items maturing at different dates the average due date shall be stated; in default of which it shall not be necessary to compute interest upon it. All such depositions shall contain an averment that no note has been received for such account nor any judgment rendered thereon. Proofs of debts received by any assignee shall be delivered to the register to whom the cause is referred. The register may decline to file any deposition until the fee for filing the same is paid. When a proof of debt is sent by mail to the register, and it shall be accompanied by the fee for filing it, and the fee for sending a notice to a creditor, the register shall acknowledge the receipt of it, and state the amount at which he has entered it, and if it shall be insufficient or unsatisfactory to the register he shall state the reason.

Any creditor may file with the register a request that all notices to which he may be entitled shall be addressed to him at any place, to be designated by the post office box or street number, as he may appoint, and thereafter, and until some other designation shall be made by such creditor, all notices shall be so addressed; and in other cases notices shall be addressed as specified in the proof of debt.

Claims which have been assigned before proof shall be supported by a deposition of the owner at the time of the commencement of proceedings, setting forth the true consideration of the debt, and that it is entirely unsecured, or if secured, such deposition shall set forth the security, as is required in proving secured claims.

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Upon filing with the register satisfactory proof of the assignment of a claim proved and entered on the register's docket, the register shall immediately give notice by mail, to the original claimant, of the filing of such proof of assignment.

And if no objection be entered within ten days, he shall make an order subrogating the assignee to the original claimant.

If objection be made within the time specified, or within such further time as may be granted for that purpose, the register shall certify the objection into court for determination. The claims of persons contingently liable for the bankrupt may be proved in the name of the creditor, when known by the party contingently liable.

When the name of the creditor is unknown, such claims may be proved in the name of the party contingently liable; but no dividend shall be paid upon such claim, except upon satisfactory proof that it will diminish, *pro tanto*, the original debt. The execution of any letter of attorney to represent a creditor, or of an assignment of claim after proof, or of the consent of a creditor to a bankrupt's discharge, may be proved or acknowledged before a register in bankruptcy, or a United States circuit court commissioner. When executed on behalf of a copartnership, or of a corporation, the person executing the instrument shall make oath that he is a member of the firm, or duly authorized officer of the corporation, on whose behalf he acts.

When the party executing is not personally known to the officer taking the proof or acknowledgment, his identity shall be established by satisfactory proof.

When the assignee or any creditor shall desire the re-examination of any claim filed against the bankrupt's estate, he may apply by petition to the register to whom the cause is referred, for an order for such re-examination; and thereupon the register shall make an order fixing a time for hearing the petition, of which due notice shall be given by mail, addressed to the creditor.

At the time appointed, the register shall take the examination of the creditor, and of any witnesses that may be called by either party; and if it shall appear from such examination that the claim ought to be expunged or diminished, the register, if no objection be made, may order acordingly. If objection be made, the register shall require the parties then, or within a time to be fixed for that purpose, to form an issue to be certified into court for determination.

If the petitioner is in default in making up said issue, the petition shall be dismissed; if the creditor whose claim is re-examined is in default in making said issue, the claim may be diminished or expunged by the register.

All orders thus made by the register may be reviewed by the court on special petition, and upon showing satisfactory cause for such review.

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RULES IN BANKRUPTCY,

ADOPTED BY

THE DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF NEW YORK.

RULE I.

The Act of Congress, entitled "An Act to establish a uniform system of Bankruptcy throughout the United States," approved March 2d, 1867, the General Orders in Bankruptcy adopted by the Justices of the Supreme Court, and the following Rules shall, until otherwise ordered, be Rules of Practice in Bankruptcy in this Court, in respect to all matters and proceedings therein provided for.

In cases not provided for, either by said Bankrupt Act, General Orders or Rules, the practice of this Court shall be subject to the Special Order of the District Court or Judge, and will be made to conform, as near as may be, to the practice of the District Court in other cases of similar character, or to the practice established by the Rules in Bankruptcy adopted in the Southern District of New York.

Whenever any Special Order hereafter made by the District Court, in any particular case, shall conflict with these Rules, the direction of such Special Order shall be followed in such case.

RULE II.

Except during the absence or inability of the District Judge, the District Court will be open for the transaction of business as a Court of Bankruptcy at the United States Court Room, in the City of Buffalo, on every Tuesday and Friday, from 10 o'clock A. M. until 1 o'clock P. M., unless the business before it shall sooner be disposed of.

Except at the Stated Sessions of the Court, no case or matter in bankruptcy will, under ordinary circumstances, be taken up on Mondays, Wednesdays, Thursdays or Saturdays, or on other days after the hour last named, or after the Judge shall have disposed of all the business before him and left the Court Room for the day. At such stated Sessions, all other business will have preference, except during the first half hour after the opening of the Court in the morning of each day, and except, also, that trials by jury in bankruptcy cases, may be moved in their order with other trials by jury in civil cases.

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RULE III.

All papers used in Court or filed in proceedings in bankruptcy, whether prepared by parties to the proceedings or their attorneys, or by any register in bankruptcy, or other officer of the Court, or by any assignee in bankruptcy, shall be written in a fair and legible hand, or else properly printed, upon paper substantially of the size and width of that called legal cap or foolscap, and folded in the form and size in which law papers written on foolscap paper are usually folded.

Every such paper containing more than three folios, shall have the folios therein duly marked and numbered; and the folios of all copies thereof shall be marked and numbered in the same manner, so as to admit of easy reference.

Papers not requiring full sheets of foolscap, may be written or printed on half or quarter sheets; and notices not requiring to be filed may be on smaller portions thereof.

All papers to be filed shall be prepared with a white margin, of at least one inch wide along the head of each and every half or quarter sheet thereof, in order that they may be properly and securely fastened together at such head, to constitute the final record in the case, and also with a white margin at least one inch wide at the left hand side thereof.

No paper not prepared in compliance with this rule, and also in compliance with the General Orders in Bankruptcy, shall be filed by the clerk without the special order of the court or judge; and no attorney not admitted in the District Court shall be allowed to practice therein in cases in bankruptcy.

RULE IV.

Every register in bankruptcy, or other officer of the court, before administering the proper oaths in verification of any petition, schedule, inventory, deposition, affidavit or other paper, shall see that the different sheets or pieces of paper of which it is composed, and those to which it refers as annexed, are properly fastened together, in such manner as to give reasonable security against the separation, loss, or change of any part thereof.

RULE V.

Before any petition under the 11th section of the bankrupt act shall be presented to the court or judge, the petitioner shall obtain from a register in bankruptcy a certificate substantially in the form following, to wit:

"*I do hereby certify that I have carefully examined the annexed or within petition, and the schedule and inventory thereto annexed, and also the verifications thereof, and that the same are proper in form, and sufficient in substance to authorize an adjudication in bankruptcy, and the issuing of a warrant under the 11th section of the bankrupt act.*

Given at this day of 187

A. B., Register in Bankruptcy.

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Which certificate shall be endorsed or annexed to such petition by the register. Before making such certificate, the register will carefully examine every part of the petition, schedule and inventory, to ascertain whether the petitioner has fully complied with every requirement of the Bankrupt Act, and of the General Orders and Rules of Court applicable thereto; and particularly that they are substantially in the form prescribed by such General Orders; that all the blanks of both such schedule and inventory are properly filled, and filled by using the word "none" where that is proper; that both the real and personal property of the petitioner, and the place where each part of the same is situated are set forth in detail and sufficiently described, and that the incumbrances thereon are stated; or that it is stated that there is no incumbrance thereon. He will also ascertain that the petitioner has fully set forth in his schedule, in respect to every debt stated therein, all the particulars required by the 11th section of the Bankrupt Act.

And the registers are specially enjoined to refuse such certificate, and to decline making any order of adjudication in bankruptcy upon any petition, until every requisite of the Bankrupt Act and of the General Orders are fully and strictly complied with.

RULE VI.

Before any petition under the 39th section of the Bankrupt Act shall be presented to the Court or Judge, the petitioner shall procure the certificate of a register in bankruptcy, to be endorsed on or annexed to such petition, substantially in the following form, viz:

"*I certify that I have carefully examined the annexed or within petition, and the verification thereof, and also the proof of debt and act of bankruptcy annexed thereto, and that the same are in proper form, and sufficient in substance to authorize an adjudication in bankruptcy, and the issuing of a warrant under the 39th section of the Bankrupt Act.*"

Given at this day of 187 ."

RULE VII.

All petitions filed under the 11th or 39th section of the Bankrupt Act shall be numbered consecutively, and the clerk shall enter the case under its proper title in his docket, giving to such case a full page thereof. He shall place its number at the head of the outside filing of said petition, which number shall thereafter be the designating number of such case until finally disposed of. Every other paper, proceeding or notice in such case or matter shall be marked by the clerk, register, messenger, or other officer or party preparing it, with such designating number at the head of the outside filing, or, if there be no outside filing, on or near the upper left hand corner.

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RULE VIII.

In case of the absence of the District Judge from the City of Buffalo, or whenever he shall be unable to attend to business by reason of sickness or other cause, petitions in cases of voluntary bankruptcy may be filed with the clerk, and the usual order for the reference thereof to a register designated in the order, may be entered upon the direction of JOSEPH L. FAIRCHILD, Esq., one of the registers in bankruptcy, who is hereby designated and authorized to sit in chambers at Buffalo for that purpose. And in case of the like absence of the Judge at the time appointed for showing cause, or for any hearing or proceeding in any matter of bankruptcy, or if any such matter, for want of time or other cause, shall not be acted on at the time appointed therefor, the same shall be continued, without special order for that purpose, to the next sitting of the Court thereafter, at which time the like proceedings may be had thereon as if the day of such subsequent sitting had been originally appointed for such proceedings.

RULE IX.

The clerk shall prepare and number envelopes of uniform size, as nearly as practicable, in which to keep separately the papers filed in each case, while the same is in progress. The designating number and the title of the case shall be endorsed upon the envelope.

RULE X.

A copy of every other order of the Court made at the time of making an order referring the petition of a debtor to a register in bankruptcy, and which contains any directions in regard to the contents of the warrant to be issued thereon, the publication or service of notices, or in regard to the action of the register on such petition, shall be attached by the clerk to the certified copy of such order of reference furnished to the register.

RULE XI.

In cases of Voluntary Bankruptcy, the register to whom the debtor's petition under the 11th section of the Bankrupt Act shall be referred, shall proceed to consider such petition at the time and place fixed in the order of reference for his first action thereon, and shall then act on such petition and shall make the order of adjudication of bankruptcy, or other proper order thereon, on the same day, or on some day to which the hearing on such petition may then be adjourned. On such hearing any creditor of the petitioner who has proved his debt, or who shall prove the same on such hearing, may oppose the prayer of said petition for an adjudication of bankruptcy, by filing with the register an answer or objections thereto as hereinafter provided.

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RULE XII.

The warrant issued to the marshal, as messenger, under the 11th section of the Bankrupt Act, shall designate the creditors (if any) on whom personal service is to be made; and notice shall be served by mail upon all creditors not so designated. No creditor shall be designated as one on whom personal service is to be made, except for special reasons of an imperative or very important character.

RULE XIII.

The 11th section of the Bankrupt Act expressly requiring that the warrant to be issued under that section, shall be issued and signed by the judge or register authorized to grant the same, there will be added to the form of said warrant as prescribed by the General Orders in Bankruptcy, immediately under the signature and official designation of the clerk of the District Court and as a part of such warrant, when granted and issued by a register, the following words, or the substance thereof: "Given under the hand and seal of the undersigned, a register in bankruptcy for the said judicial district, by whom this warrant is granted, signed and issued, in pursuance of the 11th section of the act of congress above referred to, on the day last above mentioned." Whenever such warrant shall be issued by the Judge of the District Court, the same addition shall be made, except that the words "District Judge of the United States," shall be substituted for the words "a register in bankruptcy."

RULE XIV.

When the proceeding is instituted by or on behalf of the bankrupt, a duplicate copy of his petition, schedule and inventory, as required by by the 11th section of the Bankrupt Act, shall be left with the register to whom his petition is referred, at or before the time fixed in the order of reference for the first attendance of the petitioner before such register.

Such copy shall be certified by the clerk or a register in bankruptcy to be a true copy, or shall be verified as such by the affidavit of the petitioner or of his attorney duly sworn or affirmed to before a register in bankruptcy, a commissioner appointed by the Circuit Court, or a notary public. In either case the petitioner must, at his peril, ascertain that such copy is strictly correct.

RULE XV.

A party appearing to show cause against or oppose the prayer of a petition under the 11th or 39th sections of the Bankrupt Act, shall file

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a brief statement, in writing, of the grounds of his opposition or objections thereto, if such objections relate solely to questions of law or practice in respect to the regularity or sufficiency of the petition. If his opposition to such petition is founded upon a denial of any statement of fact contained in such petition, or upon the alleged existence of other facts not stated therein, he shall by an answer to such petition, set forth in writing, in distinct and separate articles, and according to his best knowledge, information and belief, his denial of each material allegation so denied by him, and each allegation of new matter, so that distinct and separate issues may be readily framed thereon; and he shall annex thereto his affidavit that he has read said answer so signed by him, or heard the same read, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and that as to those matters he believes it to be true.

RULE XVI.

The Court, at its own instance, or on motion of either party, will refer to a register, commissioner, or referee, designated or appointed for the purpose, for examination and report, such matters arising in proceedings in bankruptcy, as, under the provisions of the Bankrupt Act may properly be so referred.

RULE XVII.

Exceptions may be filed to the report of a register, referee or commissioner, upon any matter referred to him, within eight days after the filing of such report; and exceptions to the admission or rejection of evidence may be filed within four days after the return of proofs is filed, and either party may then apply for an order fixing a time for the hearing upon such exceptions.

RULE XVIII.

When a trial by jury is to be had, no formal pleadings shall be necessary to present the issue, but the order for such trial shall contain the issues made by the petition, answer, and other papers presenting the issues to be tried.

RULE XIX.

Causes cannot be noticed for proof, nor witnesses be called and sworn, in open Court (except in trials before a jury) without the previous special allowance of the Court, on adequate cause shown.

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RULE XX.

When proofs are to be made out of Court, and the case is ready therefor, either party may apply for an order to take the same; and the name and residence of the register or other officer or person before whom such proofs are to be taken, shall be stated in the order.

RULE XXI.

A copy of the order shall be delivered to the person before whom the testimony is to be taken by the party for whom it is entered, and all parties interested shall thereafter for themselves ascertain and take notice of the time and place of taking the same, which time and place shall be fixed by the person before whom it is to be taken, in such manner that such parties may have a reasonable time to prepare therefor.

RULE XXII.

All returns and reports from registers in bankruptcy or other officers of the Court, or referees, shall be directed to the clerk of the court at Buffalo, N. Y., and shall be sent free of postage or other charges; and in case of unreasonable delay on the part of the register or other officer or referee in making a return or report in any case, an order will be granted requiring him to make such return or report, or show cause, on a day specified, why he has not done so.

RULE XXIII.

All letters to the register, clerk or marshal requiring an answer, should be accompanied by envelopes, properly addressed and with the proper postage stamps affixed, in which to enclose the reply and whatever else may be required; and no register or officer of the Court will be required to answer any such letter unless this be done, and his fees in addition are enclosed. Whenever any receipt is desired from any such officer, it must be prepared and presented by the party desiring it and with the proper revenue stamps thereon.

RULE XXIV.

In every certificate made by a register stating any case, point, or matter for the opinion of the District Judge under the 4th or 6th section of the Bankrupt Act, according to form No. 50 established by the General Orders in Bankruptcy, the facts agreed upon by the parties to the controversy shall be clearly and fully stated with reasonable certainty of

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time and place; and this shall be followed by a brief statement of the claim made, or position assumed, by each of the parties to the controversy. The register shall then add thereto such proposed order, adjudication, or decision as in his judgment ought to be made, and which shall be in such form that the District Judge may signify his approval thereof by his signature. The register shall then afford to each of the opposing parties or their attorneys a reasonable opportunity to consent, in writing, to the register's decision thereon. The Court will, on the approval and confirmation of such decision of the register, make such order for costs, against any party declining to assent thereto, as may be deemed proper. In case all parties to such controversy shall assent to such adjudication or decision of the register, he shall file the same and proceed with the case upon the basis thereof, as though such controversy had not arisen.

RULE XXV.

It shall be the duty of the assignee, as soon as practicable after his appointment shall be complete, to take into his possession all the estate, real and personal, of every name and nature, of the bankrupt, with the exceptions mentioned in the Bankrupt Act; and also all the deeds and books of account, papers and writings of the bankrupt, pertaining thereto; and for this purpose the assignee shall make diligent inquiry into the affairs and transactions of the bankrupt.

Every assignee shall, under section 27 of the Bankrupt Act, produce and file with his account proper vouchers for all payments made by him, except payments of one dollar or less, and except items in regard to which the Court shall for reasonable cause, and by special order, dispense with vouchers. The items so excepted may be allowed to a reasonable extent, upon the positive oath of the assignee that the amounts charged therein were actually and necessarily paid.

RULE XXVI.

In cases of Voluntary Bankruptcy when the assignee or any creditor shall, after the adjudication of bankruptcy, have good reason to suspect that the bankrupt has property or any right of property which he has not set forth in his inventory, or that he has made any fraudulent or void disposition of his property, or any part thereof; or that he has not given and has not used due diligence to ascertain and give the full names and residences of his creditors, or the amount of his debts, as required by the Bankrupt Act; or that he has not given a full and accurate inventory of his estate, real and personal, describing the same and where it is situated, as required by the said act; or that he has done suffered or omitted any other act or thing which may bar his right to a discharge, such assignee or creditor, upon application to the Court,

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or the Register acting in the case, stating briefly and under oath the grounds of his suspicion, may, on due cause shown by affidavit, apply for an order for the examination of the bankrupt on oath or affirmation. And if, upon due service on the bankrupt of a copy of any such order and notice of the time and place appointed for such examination, the bankrupt shall fail to appear and fully to submit himself to such examination, and to subscribe his deposition, application may forthwith be made to the Court, upon an affidavit stating the facts of the case, for compulsory process against such bankrupt.

On any such examination the bankrupt may be examined upon oath in respect to all the matters above mentioned, and also in respect to all debts due to him, or to any person for his use; all rights of property, choses in action, rights in equity, interest in patents, patent rights, or copyrights; and all rights in action for any property or estate, real or personal, or the unlawful taking, detention or injury thereof, or arising upon contract.

RULE XXVII.

In cases of Involuntary Bankruptcy, it shall be the duty of the assignee, as soon as practicable after he shall be appointed and qualified, to apply to the bankrupt for a full and true account of all his property and rights of property, and of all the deeds and books of account, papers and writings of the bankrupt pertaining thereto, as required by the Bankrupt Act; and if the bankrupt shall refuse to give such account, or if the assignee or any creditor of the bankrupt shall have good reason to suspect that he has practiced any concealment in giving such account, such assignee or creditor may, on application to the Court, and due cause shown by affidavit, have an order for the examination of such bankrupt, and, if necessary, for compulsory process against him, as provided in the last preceding rule.

RULE XXVIII.

Every bankrupt shall at all times be bound to attend the assignee upon the requirement of the register acting in his case, and on reasonable notice in writing for that purpose, to be served personally or left at his usual place of abode, in order to assist in making out the accounts of the said bankrupt's estate and effects, and to attend any Court to be examined in any suit or proceeding respecting the same, for which he shall be entitled to receive from the assignee a reasonable compensation out of the estate.

RULE XXIX.

If, in any case, the assignee or any creditor of the bankrupt shall have good reason to believe that any of the property, interests, rights, credits, or equities of the bankrupt, or any assurance or evidence thereof,

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and of which he has not given a satisfactory account, is in the possession, under the control, or within the knowledge of any other person, or that any other person is indebted to said bankrupt in a sum not stated, or larger than that stated in the inventory of the bankrupt, such assignee or creditor, upon application to the Court, and due cause shown by affidavit, may have an order for the examination of any such person, and, if necessary, for compulsory process against him, as provided in the preceding rules.

When an order for the examination of any bankrupt or other person shall be made, any creditor, or the bankrupt himself, at the time and place appointed for such examination, or at any other time to which such examination may be continued or adjourned, may, at his own expense, produce witnesses touching the subject matter of such examination, and shall be entitled to the ordinary process of subpœna, to be issued by the clerk or register, requiring the attendance of such witnesses, which subpœna the witnesses shall be bound to obey, provided their legal fees are paid or tendered on the service of such subpœna.

RULE XXX.

All motions and applications of which notice shall be required, shall, unless otherwise provided for by law, the general orders, or these rules, or by special order, be noticed for some Tuesday or Friday, at 10 o'clock, A. M., and the notice shall be accompanied by a copy of the affidavits or other papers on which the motion or application is to be made, except in cases where a reference to such papers and a statement that the same will be used on making a special motion, is sufficient under the general practice of the Court. All rules, notices and orders, when not otherwise provided for, shall be rules, orders, or notices of eight days when served personally, and double that time when served by mail.

When the object is to bring a party into contempt for disobeying any process, or any rule or order of the Court or of a register, the service shall be personal, unless otherwise ordered by the Court.

RULE XXXI.

Affidavits of the publication of notices in a newspaper, shall show that the same were published in the regular edition and issue of such newspaper, and shall state the day or days on which the same were published. Such affidavits must be sworn or affirmed before a register in bankruptcy, the clerk of the Court, a commissioner appointed by the Circuit Court of the United States, or a notary public, and shall be substantially in the following form:

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NORTHERN DISTRICT OF NEW YORK, } ss.
County of }

A. B. of in said County being duly sworn doth depose and say that he is (the printer, the publisher, or the foreman in the office, as the case may be,) of the
a public newspaper published in said County, and that the notice of which the annexed is a printed copy cut from said newspaper, was printed and published in the regular edition and issue of said newspaper on the following days, viz: On the and
days of 187 : (or on the and
days of and on the days of 187)
Subscribed and sworn before me, this day of 187 .

RULE XXXII.

The notice of the appointment of the assignee of a bankrupt, required to be given by him under the provisions of the 14th section of the Bankrupt Act, shall be published once a week for three successive weeks, in each of the newspapers in which the notice of the first meeting of the creditors of such bankrupt was directed to be published. And notices to creditors to appear and show cause why a discharge should not be granted to a bankrupt, shall be published twice a week for three successive weeks, in the same newspapers, unless the District Court shall otherwise direct.

Notices to creditors of dividends, notices that an assignee will apply for a settlement of his accounts, and for a discharge from all his liability as assignee, and notices of meetings, required by the 17th, 27th and 28th sections of the Bankrupt Act, and notices of sale by an assignee, required to be given under the 21st General Order, shall be published twice in the same newspapers; the last publication of such notices of sale to be made at least the number of days before the sale required by such general order.

RULE XXXIII.

All notices served or sent by mail by the marshal, a messenger, the clerk, or an assignee in bankruptcy, shall, when practicable, be so prepared, directed and folded, that the direction, postage-stamp and postmark shall be upon the notice itself, and not on an envelope, or other piece of paper. Whenever any notice sent by mail by the marshal, or a messenger, in pursuance of a warrant issued under section 11 or section 42 of the Bankrupt Act, shall be returned to him by reason of its non-delivery, he shall preserve the same, in his office in separate bundles, so arranged that they may be referred to by parties interested in their examination. Whenever any notice sent by the clerk, by mail, under

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any of the provisions of said act, or the General Orders in Bankruptcy, shall be so returned, the same shall be filed by the clerk with the papers in the cause.

RULE XXXIV.

The list of debts provided for by section 23 of the Bankrupt Act, shall be made and certified by the register to whom the original petition in the case was referred, unless another register shall have been specially designated for that duty by the District Court. The register shall place thereon all debts which have been duly proved and which have not been disallowed by the Court, unless it shall be otherwise specially ordered by the District Court.

RULE XXXV.

Applications, under section 34 of the Bankrupt Act, to set aside and annul the discharge granted to any bankrupt, shall clearly set forth in separate and distinct articles, and with reasonable certainty of time and place, according to the best knowledge, information and belief of the applicant, all the material facts and allegations on which the application is based.

The bankrupt shall admit or deny, or otherwise answer the several allegations of such application, in distinct articles, in like manner; and such application and answer shall severally be verified by affidavit substantially in the form prescribed by Rule XV.

RULE XXXVI.

The fifty dollars required to be deposited as security for register's fees, shall, until otherwise ordered, be deposited with the clerk according to General Order No. 30.

The provisional disposition and ultimate disbursements of the same will be regulated by rules hereafter to be promulgated, or by special order.

RULE XXXVII.

In pursuance of the 28th General Order in Bankruptcy, the following National Banks are hereby designated as those in which all moneys received by assignees in bankruptcy, shall be deposited, viz:

1. *The Albany City National Bank* at Albany; in all cases in which the bankrupt at the time of the filing of the first petition therein resided in either of the counties of Albany, Rensselaer, Washington, Warren, Essex, Clinton, St. Lawrence, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Schoharie, Delaware, Otsego and Chenango.

2. *The First National Bank of Utica* at Utica; in all cases in which the bankrupt at the time of the filing of the first petition therein resided in either of the counties of Oneida, Jefferson, Madison, Lewis and Herkimer.

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3. *The Syracuse National Bank* at Syracuse; in all cases in which the bankrupt at the time of the filing of the first petition therein resided in either of the counties of Onondaga, Oswego, Cortland, Cayuga, Wayne and Seneca.

4. *The Flour City National Bank* at Rochester; in all cases in which the bankrupt at the time of the filing of the first petition therein resided in either of the counties of Monroe, Orleans, Ontario, Livingston and Yates.

5. *The Chemung Canal National Bank of Elmira* at Elmira; in all cases in which the bankrupt at the time of the filing of the first petition therein resided in either of the counties of Chemung, Steuben, Allegany, Tioga, Tompkins, Broome and Schuyler.

6. *The First National Bank of Buffalo*, at Buffalo; in all cases in which the bankrupt at the time of the filing of the first petition therein resided in either of the counties of Erie, Chautauqua, Niagara, Cattaraugus, Genesee and Wyoming, except case numbered 3141 and cases having a higher number.

7. *The Farmers and Mechanics National Bank of Buffalo*, at Buffalo; in all cases having a higher number than 3140 (commencing with 3141) arising in the said counties of Erie, Chautauqua, Niagara, Cattaraugus, Genesee and Wyoming, or in which the bankrupt at the time of the filing the first petition therein resided in either of said last mentioned six counties.

Deposits made in said banks by any assignee in bankruptcy under said 28th General Order, shall be made to his credit as such assignee in the particular case in which such moneys have been received; and a separate account shall be kept in each case according to its proper designating number and title. Checks drawn by assignees in bankruptcy for moneys deposited by them in such deposit banks, shall contain the number and title of the case in which they are drawn; shall be signed by the assignee as such; and shall state "the date, the sum and the account for which it is drawn," and shall be countersigned by the register in bankruptcy having charge of or acting as such in the case in which said checks are drawn. When such checks are drawn for the payment of dividends declared, they shall be made payable to the order of the persons entitled to such dividends, unless the register acting in the case shall, by reason of the small amount of separate dividends, authorize the drawing of a check payable to the order of the assignee for the aggregate of several of such dividends, or shall for some other reason authorize the making of such check payable to the order of some other person, or to bearer.

The designation of Banks of Deposit hereby made, is upon the condition that the said First National Bank of Buffalo, the Farmers and Mechanics National Bank of Buffalo and the Flour City National Bank severally agree to allow and credit to the assignee, in each account, separately, whenever such account is about to be closed, interest at the rate of *five* per cent. per annum on the daily balance of such account, and shall file with the clerk of this Court, whenever required, a satisfactory bond, executed by one or more persons, as a further security for the safe keeping and proper repayment of such deposit,—such bond to be approved by the judge of this Court; and that each of the other banks designated shall credit in like manner *four and a half* per cent. interest on such daily balances, and file a similar bond whenever such bond shall be required.

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The clerk will certify a copy of this rule, and transmit the same, by mail or otherwise, to each of said banks, and will also certify to each bank the name of the register in bankruptcy appointed for the district to which each of the counties named in designating such bank belongs; and whenever the register of any other district shall be designated to act in any case where the bankrupt at the time of the filing of the first petition therein resided in either of said counties, the clerk will, on the application of the assignee appointed in such case, certify to the proper deposit bank the name of the register authorized under the rule to countersign checks in such case.

RULE XXXVIII.

The following newspapers are hereby designated as those in which notices required to be published in cases of bankruptcy are to be inserted, except in cases where, for special reasons, other directions shall be given by the District Court, viz:

When the alleged Bankrupt resides in the County of

ALBANY—In the Albany Evening *Journal* and in the *Argus.*

When in the county of ALLEGANY—In the Angelica *Reporter* and in the *True Patriot* at Cuba.

When in the county of BROOME—In the Binghamton Daily *Republican* and in the Binghamton *Democrat.*

When in the county of CAYUGA—In the Auburn Daily *Advertiser* and in the Auburn *Democrat.*

When in the county of CATTARAUGUS—In the Cattaraugus *Republican* and in the Cattaraugus *Union.*

When in the county of CHAUTAUQUA—In the Jamestown *Journal* and in the Mayville *Sentinel.*

When in the county of CHENANGO—In the *Telegraph and Chronicle* at Norwich, and in the Chenango *Union* at Norwich.

When in the county of CHEMUNG—In the Elmira Daily *Advertiser* and in the Elmira Daily *Gazette.*

When in the county of CLINTON—In the Plattsburgh *Sentinel* and in the Plattsburgh *Republican.*

When in the county of CORTLAND—In the Cortland weekly *Journal* and in the Cortland County *Democrat.*

When in the county of DELAWARE—In the Delaware *Republican* and in the Delaware *Gazette.*

When in the county of ERIE—In the Buffalo Commercial *Advertiser* and in the Buffalo Daily *Courier.*

When in the county of ESSEX—In the Essex County *Republican* and in the Elizabethtown *Post.*

When in the county of FRANKLIN—In the Malone *Palladium* and in the Franklin *Gazette.*

When in the county of FULTON—

Or in the county of HAMILTON—In the Johnstown *Independent* and in the Fulton County *Democrat.*

When in the county of GENESEE—In the Republican *Advocate* and in the *Spirit of the Times*, published at Batavia.

When in the county of HERKIMER—In the *Journal and Courier* and in the Herkimer County *Democrat.*

When in the county of JEFFERSON—In the New York *Reformer* and in the Watertown *Re-Union.*

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When in the county of LEWIS—In the *Journal and Republican*, published at Lowville, and in the Lewis County *Democrat*.
When in the county of LIVINGSTON—In the Western New York *Advertiser*, published at Dansville, and in the *Union and the Constitution*, published at Mount Morris.
When in the county of MADISON—In the *Republican*, published at Hamilton, and in the Oneida *Observer*, published at Utica.
When in the county of MONROE—In the Rochester Daily *Union and Advertiser*, and in the Rochester Daily *Democrat*.
When in the county of MONTGOMERY—In the Montgomery County *Republican*, and in the Montgomery *Democrat*, published at Fonda.
When in the county of NIAGARA—In the Lockport *Union* and in the Lockport *Journal*.
When in the county of ONTARIO—In the Ontario *Repository and Messenger* at Canandaigua, and in the Geneva *Courier*.
When in the county of ONEIDA—In the Utica Morning *Herald* and in the Utica Daily *Observer*.
When in the county of OSWEGO—In the Oswego Commercial *Advertiser and Times* and in the Oswego *Palladium*.
When in the county of ONONDAGA—In the Syracuse Daily *Standard* and in the Syracuse Daily *Courier and Union*.
When in the county of OTSEGO—In the Otsego *Republican* and in the *Freemen's Journal* published at Cooperstown.
When in the county of ORLEANS—In the Orleans *American* and in the Orleans *Republican*.
When in the county of RENSSELAER—In the Troy Daily *Times* and in the Troy Daily *Press*.
When in the county of SCHOHARIE—In the Schoharie *Republican* and in the Schoharie *Union*.
When in the county of SCHENECTADY—In the Schenectady Daily *Union* and in the Evening *Star*, published at Schenectady.
When in the county of SARATOGA—In the *Saratogian* and in the *Saratoga Sentinel*, published at Saratoga Springs.
When in the county of ST. LAWRENCE—In the *Courier and Freeman*, published at Potsdam, and in the Ogdensburgh *Advance*.
When in the county of SENECA—In the Seneca County *Courier* and in the Seneca *Observer*.
When in the county of STEUBEN—In the Canisteo Valley *Times*, and in the Steuben *Farmers' Advocate*.
When in the county of SCHUYLER—In the Havana *Journal* and in the Watkins *Independent*, or in the Schuyler County *Democrat*.
When in the county of TIOGA—In the Owego *Times* and in the Owego *Gazette*.
When in the county of TOMPKINS—In the Ithaca *Journal* and in the Ithaca *Democrat*.
When in the county of WASHINGTON—In the Salem *Press* and in the Sandy Hill *Herald*.
When in the county of WARREN—In the Glen's Falls *Messenger* and in the Glen's Falls *Republican*.
When in the county of WAYNE—In the Lyons Weekly *Republican* and in the Wayne *Democratic Press*.
When in the county of WYOMING—In the *New Yorker*, published at Warsaw, and in the *Democrat* published at the same place; and
When in the county of YATES—In the Penn Yan *Express* and in the Penn Yan *Democrat*.

The warrants issued by registers directing notices of the first meeting of creditors shall direct the publication of such notices in the two designated papers of the county in which the bankrupt so resides, unless the register shall, for special reasons relating to the residence of the

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bankrupt or his creditors, deem it more suitable, in lieu thereof, to publish the same in the newspapers designated in an adjoining county, in which case the register may direct such publication in such adjoining county. Such warrants shall, unless otherwise specially ordered, direct that such notices shall be published twice in each of the two selected papers.

In any case where the circumstances require it, such publication may be made in other papers by the special order of the Court or Judge.

Due proof of the publication of such notices shall be furnished to the marshal, officer or party directing and paying for such publication, and such proof shall be filed with the papers or proceedings to which they particularly relate.

The fees of printers for making such publication and furnishing the proof thereof are those prescribed by the act of Congress of the 26th of February, 1853, viz: forty cents per folio for the first insertion, and twenty cents per folio for each subsequent insertion; but, as these rates are not considered remunerative, and publishers have declined to publish bankrupt notices at such rates, messengers and assignees are authorized, in cases where publishers decline to publish such notices for the fees prescribed by act of Congress, to allow and pay, if necessary, the fees allowed by the laws of the State for the like publication of similar notices in legal proceedings under the laws of the State.

Notwithstanding the provisions of this rule, the Court, in cases where, by accident or inadvertence, and without intention to disregard the rule or omit the prescribed notices, a different but substantially equivalent publication has been made, will exercise its discretion in waiving any technical irregularity, and acting upon a notice published in good faith and giving proper information to all parties interested, although not published in strict conformity to this rule.

RULE XXXIX.

Whenever a petition, under section 11 of the bankrupt act, shall be referred to a register in bankruptcy, and whenever, in a case of involuntary bankruptcy, an order shall be made upon an adjudication in bankruptcy referring such case to a register, the clerk shall advance to such register, on account of his fees, chargeable to the petitioner, the sum of twenty-five dollars out of the fifty dollars deposited with the clerk under section 47 of the Bankrupt Act. Whenever a detailed statement of his fees so chargeable shall be made and filed by the register, showing that the aggregate amount of the same exceeds the aggregate of the advances made on account thereof, the clerk if requested by the register, shall make further reasonable advances to him on account of such fees, until the amount so deposited and all interest received by the clerk thereon shall be exhausted; and whenever the aggregate of the fees of the register, chargeable to such petitioner, shall equal or exceed the said sum of fifty dollars, all such fees in excess thereof, and all subsequent fees of such register so chargeable to such petitioner, shall be paid or secured as provided for by General Order No. 29.

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Within forty days after the proceedings in a case referred to a register, as aforesaid, shall be finally closed, such register shall make under oath, and file with the clerk, a detailed statement of his fees charged or chargeable to or against the petitioner in such case, and of the sums advanced or paid to him by the clerk, or by or on behalf of the petitioner, on account thereof; and he shall within ten days thereafter pay over to the clerk, so much of the moneys so advanced as is not required for the payment thereof. Such statement shall be made in and relate to such case only, and shall be so prepared, as a separate paper, that it may be made a part of the record in such case; and it is recommended to registers to make and file, within the first ten days of every calendar month, the statement above required in all cases closed during the preceding month.

Whenever it shall satisfactorily appear from any such statement that there is a balance due to said register for fees so chargeable as aforesaid, the clerk shall on demand pay such balance, or so much thereof as the residue of the fifty dollars so deposited by the petitioner and the interest received by the clerk thereon will pay of the same.

(Modified and mostly abrogated by the Amended General Order in Bankruptcy.)

RULE XL.

When in a case of Voluntary Bankruptcy the petitioner owes debts as a partner, and desires to obtain a discharge, which shall, in form, be a discharge from his debts as such partner, as well as in his individual capacity, he shall, in his petition and in the proper schedule thereto annexed, or in proper amendments thereto, state the name or names of his partner or partners, and also the firm name of such copartnership, and whether the copartnership still subsists; and shall designate the debts owing by him as a member of such copartnership as partnership debts. He shall also in like manner set forth in his inventory, the joint property, rights, credits and estate (if any) of such copartnership, and the location, situation, &c., thereof, as required by the Bankrupt Act.

RULE XLI.

In order to save unnecessary expense and labor, the registers will, when practicable, include in a single certificate copies of the memoranda of all their proceedings in the same case, upon the same day, which are required to be forwarded to the clerk under the provisions of the Bankrupt Act and of the General Orders; and they will send no certified copy of memorandum, or of docket entry, other than those required by the said act or orders.

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RULE XLII.

There shall be added to the adjudication of bankruptcy, in an involuntary bankruptcy case, as in form No. 58, an order referring the case to one of the registers in bankruptcy to take such proceedings therein as may be necessary.

RULE XLIII.

The notice in writing of the acceptance of the trust, which is required to be given by an assignee in bankruptcy, may be given to the register having charge of the case, who will transmit the same to the clerk of the Court, with the other papers in the case, as required by the 7th General Order.

RULE XLIV.

Every assignee in bankruptcy, if required by the register having the case in charge, shall give a bond, with a surety or sureties, as provided for in the 13th section of the Bankrupt Act; the form and penalty of such bond, and the sufficiency of the surety or sureties therein, to be approved by such register. It shall be the duty of the registers to require such bond, upon the request in writing of any creditor who has proved his claim, or whenever it shall otherwise appear to be proper to do so.

RULE XLV.

In order to guard against the loss or destruction of the evidence of an assignment, every assignee, on receiving an assignment of an estate in bankruptcy, in which the assets are sufficient to justify the expenditure, shall send or deliver such assignment to the clerk of the Court, who shall make a true copy thereof, and certify the same under his hand and the seal of the Court, and send or deliver said certified copy to such assignee; and the original assignment shall then be placed and kept on file with the other papers in the case.

RULE XLVI.

Whenever it shall appear by the inventory of the bankrupt, or otherwise, that he has real or personal property, or choses or rights in action, or any other legal or equitable interests, beyond the limits of the United States, or debts due to him from any person residing abroad, the register having his case in charge may, and, on the request of the assignee, shall require the bankrupt to execute and acknowledge in due and proper

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form a full assignment thereof and of all his other property, real and personal, equitable interests, choses in action and rights of action of every name, nature and kind whatsoever, and wherever the same may be situted. And if the bankrupt shall neglect or refuse to execute such assignment, he may, on due application to the Court be compelled to do so by process of attachment or other proper proceeding.

RULE XLVII.

It shall be the duty of every assignee, within fifteen days after receiving an assignment of the estate of any bankrupt, to set apart from the property of such bankrupt such part thereof as is specially excepted by section 14 of the Bankrupt Act; and also such other articles and necessaries as shall be designated by such assignee, (having reference to to the family, condition and circumstances of the bankrupt,) as being proper to be set apart for the use of the bankrupt, as provided for by said 14th section. And such assignee, within five days thereafter, shall file with the clerk of the Court a full report of his decisions and doings in this respect, and of the articles set off to the bankrupt by him, with the estimated value of each article, as required by the 19th General Order; and in which he shall also state whether there remains any property or other assets or valuable thing for the benefit of the creditors of the bankrupt. The bankrupt, or any creditor who has proved his debts, may except to the said report or any part thereof, by stating each of his objections thereto in proper form, and in a separate article, and filing the same with the clerk of the Court within twenty days after the filing of such report; and, if not so excepted to, the report shall stand confirmed. If so excepted to, the effect thereof and of the designation and the setting apart aforesaid shall be suspended until the order of the Court upon such exception shall modify, or confirm the said report.

For his miscellaneous services, for which no other fee is provided, and for designating and setting apart such property and making and filing his report thereof, within the time and in the manner above prescribed, the assignee shall be entitled to a fee of five dollars; and for travel (when absolutely necessary for the purpose of designating and setting apart such property) six cents per mile for each mile in going and returning; he shall also be allowed ten cents per folio for each folio of one hundred words contained in such report. Such fees shall be paid by the bankrupt unless assets, sufficient to pay the same, remain in the hands of the assignee.

RULE XLVIII.

Whenever, by reason of the sickness, necessary absence or other disability of the register in bankruptcy having any case or matter in charge, he shall be unable to hear the same, or to proceed therein at the time and place appointed therefor, the same may be adjourned by him by a

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written notice and order stating such adjournment, and the time and place to which it is made, and posting the same on the outer door of the office or room in which such hearing or proceeding was intended to be had.

RULE XLIX.

The oath required by the 29th section of the Bankrupt Act to be taken and subscribed by a bankrupt before his discharge can be granted, shall follow the language of such section as near as may be, and shall be substantially in the following form, viz:

DISTRICT COURT OF THE UNITED STATES,
For the Northern District of New York.

IN BANKRUPTCY.

In the matter of A. B.
A Bankrupt. } No.

NORTHERN DISTRICT OF NEW YORK, *ss.*

A. B., the petitioner above named, being duly sworn, deposes and says, that he has not wilfully sworn falsely in his affidavit annexed to his petition, schedule or inventory, filed in this case, or upon any examination in the course of the proceedings in bankruptcy, in relation to any material fact concerning his estate or his debts, or in any other material fact; that he has not concealed any part of his estate or effects, or any books or writings relating thereto; that he has not been guilty of any fraud or negligence in the care, custody or delivery to the assignee of the property belonging to him at the time of the presentation of his petition and inventory, excepting such property as he is permitted to retain under the provisions of the Bankrupt Act passed by Congress, approved March 2, 1867, and entitled "An Act to Establish a Uniform System of Bankruptcy throughout the United States;" that he has not caused, permitted or suffered any loss, waste or destruction thereof; that he did not within four months before the commencement of such proceedings, procure his lands, goods, money or chattels, or any part thereof, to be attached, sequestered or seized on execution; that since the passage of the said act, he has not destroyed, mutilated, altered or falsified any of his books, documents, papers, writings or securities; that he has not made or been privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors; that he has not removed or caused to be removed any part of his property from this district with intent to defraud his creditors; that he has not given any fraudulent preference contrary to the provisions of the said act, or made any fraudulent payment, gift, transfer, conveyance or assignment of any part of his property, or lost any part thereof in gaming; that he has not admitted a false or fictitious debt against his estate; that he has not had knowledge that any person has proved a false or fictitious debt against his estate, without having disclosed the same to his assignee within one month after such knowledge; that he has not, whilst being a merchant or tradesman, failed, subsequently to the passage of this act, to keep proper books of account; that he has not, nor has any person in his behalf, procured the assent of any creditor to the discharge, or influenced the action of any creditor, at any stage of the proceedings, by any pecuniary consideration or obligation; that he has not, in contemplation of becoming bankrupt, made any pledge payment, transfer, assignment or conveyance of any part of his property, directly or indirectly, absolutely or conditionally, for the purpose of preferring any creditor or person having a claim against him, or who was or might be under liability for him, or

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for the purpose of preventing the property coming into the hands of the assignee, or of being distributed under said Bankrupt Act in satisfaction of his debts; that he has not been convicted of any misdemeanor under said act, or been guilty of any fraud whatever contrary to the true intent thereof; and that he has not done, suffered, or been privy to any act, matter or thing specified in the said Bankrupt Act as a ground for withholding a discharge, or as invalidating a discharge if granted. A. B.

Subscribed and sworn before me by the above named A. B., at in the State of this day of 187 .

RULE L.

A creditor opposing the discharge of a bankrupt shall set forth, succinctly and clearly, in separate articles, as his specification of the grounds of his opposition, each of his objections to such discharge, with the grounds thereof, if such objections raise only questions of law or practice in respect to the substance, form, sufficiency, regularity or effect of the petition, schedule or inventory of the bankrupt, or of the proceedings had thereon. If his opposition to a discharge is founded upon a denial of any statement contained in such petition, schedule or inventory, or upon the alleged existence of any fact not stated therein, or not conclusively appearing upon the records of the Court, he shall set forth, in writing, in distinct and separate articles, each of such objections, and the facts on which it is based, according to his best knowledge, information and belief, and with requisite certainty of time and place; and shall also set forth in like manner, and in clear and express terms, his denial of each material statement controverted by him, so that distinct and separate issues may be readily framed thereon; and such allegations and denials shall be verified by affidavit as provided for in Rule XV.

The bankrupt, if he desires to deny any of such new allegations, or to avoid the effect thereof by the allegation of new matter, shall make and verify his denials and allegations in the manner above provided; and such new allegations may in like manner be denied or avoided by the opposing creditor.

RULE LI.

Whenever it shall become necessary to adjourn the first meeting of creditors under the 12th section of the Bankrupt Act, and to give a new notice as provided for in that section, it shall not be necessary to serve such new notice upon creditors who were duly and properly served with the notice of meeting required by the warrant issued under the 11th or the 42d sections of the act, or to publish notices of the adjourned meeting, if the notices directed by such warrant were duly published as required by such warrant. It shall be sufficient, in case such notices were not so published, to publish such new notices twice in each of the newspapers designated in such warrant. If proper notices were not served upon any creditor, it shall be sufficient to serve the new

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notice personally or by mail, as may be directed by the register, on such creditors as were not properly served with the notices directed by the warrant. The said new notices so to be published and served shall severally contain substantially the same statements as were contained in the notices directed by the warrant, except that they shall state the meeting to be held to be "an adjourned meeting," and that it will be held in pursuance of the 12th section of the Bankrupt Act. This may be done by inserting in place of the "a" before the word "meeting" in said notices, the words "in pursuance of the 12th section of the Bankrupt Act, an adjourned." Such new notices must be served and such publication of new notices completed at least twelve days before the day fixed for the holding of such adjourned meeting.

RULE LII.

Witnesses or persons subpœnaed or summoned to attend before the Court, or before a register, shall be paid or tendered their fees for their necessary travel and for one day's attendance, at the rate allowed by act of Congress, or no proceedings to compel obedience to such subpœna or summons can be taken against them.

RULE LIII.

Every assignee shall be allowed fifty cents for drawing a notice of dividend, or a notice of the meetings of creditors required to be given or published under the 17th section of the Bankrupt Act, or a notice of his application for a settlement of his accounts and for a discharge of his liability as assignee, and the like sum for a copy thereof for publication and attending to the publication thereof, in each of the newspapers in which he is required to publish the same. He shall also be allowed the same sum for a single copy of such written notice of a dividend, which he shall post in his office or place of business. And he shall not be required to give any other written notice of a dividend under said 17th section;—the register being required, by the 27th section of the act, to "forward by mail to every creditor a statement of the dividend to which he is entitled." The notice of dividends to be posted as aforesaid, shall be addressed substantially as follows: "To each and every creditor of A——— B———, a bankrupt."

RULE LIV.

Nothing in these rules contained shall require any register, marshal, messenger, clerk or assignee, to render any service or make any disbursements, unless the fees therefor or the amount of such disbursements shall have been previously advanced or secured to him.

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RULE LV.

All applications for the calling of a second or a third meeting of creditors, made after the expiration of three months from the date of the adjudication in bankruptcy in the case in which such application shall be made, shall be made to the register in bankruptcy to whom such case shall stand referred, and by the assignee in bankruptcy as required by the 27th and 28th sections of the Bankrupt Act; and hereafter no order for the second and third meetings of creditors shall be made by the District Court unless the application for the discharge of the bankrupt shall be made within three months from the time the applicant was adjudged a bankrupt. Such order, when made by a register, shall be signed by the register making the same, and the signature and the seal of the clerk shall not be required to be affixed thereto.

RULE LVI.

Whenever the fees of the register in bankruptcy, to whom any case has been referred, shall have been duly taxed by the clerk, after service of eight days notice of such taxation, with a copy of the bill of such fees, upon the attorney of the bankrupt, or upon the bankrupt himself if he conduct the proceedings in person, and on the assignee of such bankrupt, and no proof of the service of a proper notice of a motion for a retaxation, or of an appeal from such taxation shall have been filed with the clerk within six days after the filing of such taxed bill; or, whenever a detailed bill or account of such fees shall be filed with the clerk accompanied by an agreement in writing thereto annexed, signed by such bankrupt, or his attorney, the assignee of such bankrupt, and the register presenting such bill, by which the amount of such register's fees shall be fixed and agreed upon, the clerk shall be and he hereby is authorized and directed, without any special or further order, to pay to such register the amount due him for such fees, (after deducting the advances and payments already made on account thereof,) or so much thereof as can be paid by the moneys deposited with the clerk as security for such fees and the interest that has accrued thereon, on being furnished by such register with his proper receipt or voucher therefor, as a payment or part payment of such fees. Provided, nevertheless, that no moneys shall be paid in any case, under the provisions of this rule, unless the register entitled to the same shall have filed in the clerk's office the papers in such case, which he is required to file with the clerk by the 7th General Order in Bankruptcy; and provided, further, that no moneys shall be so paid without the taxation of the register's bill of fees in any case, when any creditor who has proved his debt shall have filed with the clerk a notice that he requires the fees of such register to be duly taxed.

(Modified by amendments of General Orders adopted by the Supreme Court.)

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RULE LVII.

It shall be the duty of the register in bankruptcy, to whom any case in bankruptcy shall have been referred, to require proper security from the assignee or assignees therein, whenever the amount of assets likely to come to the hands of the assignees or any other cause may render such requirement necessary or proper; to exercise a general supervision over the acts and doings of such assignees in order to secure a proper execution of their duties, and the prompt and proper deposit or disposition of all moneys or other assets which may come to their hands as such assignees; to ascertain, by suitable enquiries from time to time, whether security or additional security should be required of any assignee, or any deposit bank, and the amount thereof, and to report the same whenever necessary, to the District Judge for his action; to require all assignees to take proper measures for the declaration and payment of proper dividends to creditors, and for the passing and final settlement of their accounts before such registers in due time and form; to see that all suitable and proper action is had, and returns made and filed by the different officers of the Court and assignees in such cases; and, generally, to take all such action in each case referred to them as may be within their power and shall appear to be necessary to promote the interests and secure the just rights of creditors, or to secure the filing, at the proper time, of all the process, papers, and proceedings in such case, which ought to be placed upon the files of the Court.

RULE LVIII.

Every creditor appearing to show cause against the discharge of a bankrupt, shall furnish to the clerk a notice or statement in writing, signed by him or by his attorney, that he appears in opposition to such discharge, and desires that his appearance for that purpose may be entered; and the filing of such notice or statement at the time fixed for showing cause, shall be a sufficient entry of such appearance.

RULE LIX.

The several deposit banks designated by General Rule in Bankruptcy, No. 37, heretofore adopted by this Court, are specially requested to transmit to the clerk of this Court, on or before the twentieth day of the months of January and July in each year, a report of the aggregate of all sums remaining on deposit on the first day of each of said months, in each case, and the aggregate amount of all deposits made between the first day of the month in which the previous report was required to be made, and the first day of the month in which such report for the six preceding months is required to be made; giving, in each case, the number of the case and the name of the assignee or assignees therein.

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And every register in bankruptcy is hereby requested to make a report to the clerk of this Court, within thirty days after the first days of January and July in each year, of the name of every assignee who has failed to deposit funds received by him as required by General Order No. 28, and said General Rule No. 37; or who has failed to make the monthly return required by such general order; or who has failed, after due request by the register, to close his trust and pass his accounts as assignee within a reasonable time after his appointment or election as such assignee. And such registers are also directed to file with the clerk (after proper note thereof in their registers, and at their earliest convenience) any return or report of any assignee in bankruptcy under said general order, and also to file with the clerk, as soon as it can be properly done, all final or other accounts of assignees which have been or shall be passed and allowed by such registers.

RULE LX.

Upon the hearing of an application for a final discharge, in a case where the proceedings were commenced after the first day of January, 1869, it will be referred to a register to take the necessary proofs, and to ascertain and report to the Court, with all convenient speed, whether the assets of the bankrupt were or were not equal to fifty per cent. of the claims against the estate of such bankrupt upon which he was liable as the principal debtor, which had been proved prior to the making of such order; and whether the assent in writing of a majority in number and value of such creditors who had so proved such claims, had been filed in the case, at or before the time of such hearing of the application for such discharge; and also, whether such bankrupt has in all things conformed to his duty under the Bankruptcy Act, and the amendments thereof, and is entitled to a discharge. And such order of reference will provide that the assignee, or any creditor of such bankrupt, as well as the said bankrupt, may appear and produce proofs, and examine and cross-examine witnesses upon the reference; and that the proceedings and report of the register shall stand confirmed and be conclusive, unless the same shall be excepted to within the time and in the manner required by the rules and practice of this Court.

RULE LXI.

Upon the filing of the petition, schedule and inventory of a debtor, in conformity to the provisions of the 11th section of the Bankruptcy Act, and of the General Orders in Bankruptcy, together with the certificate of a register annexed thereto, as provided by rule 5, the clerk may enter, as of course, the usual order of reference thereof to the register of the congressional district in which such petitioner is stated in such petition to reside, in the form prescribed for such orders of reference

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by the General Orders in Bankruptcy, and specifying the office of such register as the place where the register shall act upon the matters arising in the case in which such petition is filed.

RULE LXII.

Upon the filing of the petition of a creditor or creditors of any debtor, and due proof of the debt and of the acts of bankruptcy therein alleged, in conformity to the 39th section of the Bankruptcy Act and the General Orders in Bankruptcy, and the forms thereby prescribed, together with the certificate of a register, as required by the 6th General Rule in Bankruptcy, then in force, the clerk may enter, as of course, and without special authority from the District Judge, the usual order, according to form No. 57 annexed to the General Orders in Bankruptcy, for the debtor or debtors named in such petition to show cause before the Court, at the United States Court rooms at Buffalo, at ten o'clock in the forenoon of such Tuesday or Friday, not less than six nor more than thirty days distant, as to said clerk shall appear expedient, and may include in such order the usual injunction clause as authorized by the 40th section of the Bankruptcy Act.

RULE LXIII.

As petitions for adjudication in bankruptcy are sometimes filed by or against a supposed bankrupt without any intention, on the part of the petitioner, to proceed thereon with due diligence for the benefit of all the creditors of said supposed bankrupt, but with the intention of forcing a compromise for the benefit of the debtor, or obtaining a fraudulent preference or other unlawful advantage over his general creditors, by means whereof gross injustice or great inconvenience may result to creditors of such supposed bankrupt or debtor, or to persons dealing with him in ignorance of such petition, all such petitioners are required to proceed with due diligence; and if, in any case, a petitioner shall fail to procure an adjudication, and to place the proper warrant in the hands of the marshal for execution, within thirty days from the filing of his petition, such petition may be dismissed on motion of any person interested, or by the Court without special motion, unless good cause shall be shown for the delay, or unless some creditor of the bankrupt shall appear to prosecute such petition or carry on the proceedings.

And if any creditor, who shall have filed a petition against any supposed bankrupt, shall fail to obtain an order to show cause against an adjudication within five days after the filing of such petition; or, if any debtor who shall have filed his voluntary petition for a discharge from his debts, shall fail to procure an order referring the same to a register for further proceedings, within five days after the filing of such petition, such petition shall stand dismissed without motion or special order, un-

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less the Court or the Judge thereof shall, before the expiration of said five days, have otherwise ordered. And the clerk will report to the judge, whenever any petitioner shall fail to prosecute his petition with due and proper diligence.

And whenever a petitioner in bankruptcy shall fail to prosecute the proceedings upon his petition with proper diligence before the register, it shall be the duty of the register to require such petitioner to exercise such diligence, and prosecute such proceedings without unreasonable delay; and, in case of neglect to comply with such requirement, the register shall report the fact to the Court for its action.

RULE LXIV.

Any person who may be liable as bail, surety, guarantor or otherwise, for any debt of a bankrupt, and who has not paid the whole of said debt, but is still liable for the same or any part thereof, may, if the creditor shall omit or fail to prove said debt, prove the same in the name of such creditor, after ten days previous notice of his intention to prove said debt, in case such creditor shall fail to make due proof thereof. Such notice shall be in writing, and shall be served personally, or by leaving at the residence of such creditor with some person of suitable age and discretion, if the parties reside in the same city, town or village; and, if not so residing, the same shall be served by being sent by mail with the postage thereon fully paid, to the proper address of such creditor. Such notice shall also contain a brief description of the debt, and of any instrument in writing by which it may be evidenced, together with a brief statement of the character of the liability therefor of the person giving such notice, and a notification that, in case such creditor shall fail or omit to prove said debt within ten days after the service of such notice, the person giving such notice will prove the same in the name of such creditor. The proof of such debt shall contain, in addition to the matters now required, the statement that it is made by the person or persons making the same as being liable for the bankrupt, as surety, bail, guarantor, or otherwise; and it shall also state in general terms the obligation, or the facts and circumstances out of which such liability arose; the amount, if any, such person or persons has or have paid on account thereof, and the amount he or they is or are still liable to pay; and in case he or they shall have secured the payment thereof, the manner in which it is secured, and also the fact that the notice hereinbefore prescribed has been given, and stating to whom, and in what manner. Such proof shall be verified by the oath of the person making the same, or by the oath of some other person or persons who has or have knowledge of the facts stated therein.

In case the person proving such debt, shall produce to and deposit with the assignee of the bankrupt a consent in writing (duly acknowledged or proved) of the creditor in whose name such proof shall be made, that the proper dividends from the estate of the bankrupt on ac-

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count of such debt be paid to the person proving the same, as a payment and dividend upon said debt so proved, all such dividends properly payable thereon shall be paid to the person making such proof.

In case such consent shall not be produced, the assignee shall pay the dividends to such creditor; and in case he shall refuse or neglect to apply for the payment of any dividend for thirty days after notice that the same has been declared and is payable, such dividend shall be paid into Court subject to its order.

(Modified by Amended General Orders in Bankruptcy adopted by the Supreme Court.)

RULE LXV.

Whenever, at any meeting of the creditors of a bankrupt, the allowance of any debt or claim offered for proof, or which shall have been before proved, shall be objected to in whole or in part, the register, if he deem it just and expedient, may require the objection to be fully stated; and, if the person offering or who made such proof is present or represented, may require the evidence on both sides to be produced forthwith, or as soon after as practicable, before him; and he shall take the evidence offered, and shall report the evidence and his views of the case to the Court as soon thereafter as may be. And whenever it shall appear that frivolous objections are made to the proof of debts, or that unfounded claims have been made, the Court will make such order concerning costs as may be just and expedient.

(Modified as above stated.)

RULE LXVI.

At each second, or subsequent general meeting of the creditors of a bankrupt, and at each adjournment thereof, it shall be the duty of the assignee or assignees of such bankrupt to exhibit to the register, and under his direction to the creditors of such bankrupt, all proofs of debts or demands against said bankrupt's estate, together with his accounts of receipts, disbursements and payments; and any person interested may, at any such meeting, take objection to the proof of any debt so exhibited for the first time, as fully as he might or could have done had said debt been then first offered for proof,—subject always to such terms and conditions concerning notice to the proving creditor, as may fully secure his right to be heard in all proceedings in respect thereto.

RULE LXVII.

Upon special cause therefor being shown to the register in charge, he may grant leave to any creditor to examine a bankrupt before the appointment of his assignee. After the appointment of an assignee of any

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bankrupt, any creditor, who may obtain an order from the Court or a register for the examination of such bankrupt shall notify the assignee thereof; and it shall be the duty of such assignee to attend the examination, and take care that it is as thorough and complete as may be necessary, whenever a thorough examination of said bankrupt is deemed important to the interest of the general creditors. The assignee and any creditor may carry on and continue any such examination, as fully and effectually as the creditor at whose instance the order therefor was obtained, subject to all proper regulations concerning the costs and expenses thereof, and to such other regulations, as to the time and manner of examination, as the register may find convenient. No second order for a general examination of any bankrupt will be granted as of course; but an order therefor may be granted, whenever there are special reasons therefor, and may be so restricted and guarded in respect to the extent or matters of the inquiry, or otherwise, as the justice of the case may require. Nor will any examination be granted as of course, unless applied for within five months after the adjudication of bankruptcy in the case. Upon good cause shown for the delay, the order may be granted after the expiration of such period of five months.

RULE LXVIII.

Objections to the approval of any assignee who shall be duly elected, must be made in writing, specifying fully the reasons of objection, and must be filed with the register at the meeting at which the election is had; and the register shall proceed at once, or as soon thereafter as may be practicable and consistent with a due hearing, to take all evidence that may be offered pertinent to such objections, and whether for or against the appointment; and shall report the same to the Court with his opinion thereon. Further evidence or argument will not be heard by the Court except in special cases, and when satisfactory reasons therefor shall be shown by affidavit, or by the register's report.

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